

## MEETING RECORD

**NAME OF GROUP:** City Board of Zoning Appeals

**DATE, TIME AND  
PLACE OF MEETING:**

Friday, March 29, 2002, 1:30 p.m., City Council Chambers, City-  
County Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS AND OTHERS  
IN ATTENDANCE:**

**Members:** George Hancock, Tom Wanser and Gene Carroll

**Others:** Rodger Harris (Building & Safety), Tonya Skinner  
(City Law Dept.), Jason Reynolds and Missy  
Minner (Planning Dept.), applicants and other  
interested parties.

**STATED PURPOSE**

**OF THE MEETING:** Regular Monthly Meeting of the City Board of Zoning Appeals

Chair Hancock called the meeting to order and requested a motion approving the minutes of the February 22, 2002 meeting. Motion for approval made by Carroll, seconded by Wanser. Motion for approval carried 3-0; Carroll, Wanser and Hancock voting 'yes'; Wibbels and Krieser absent.

### City Board of Zoning Appeals No. 2325

Requested by Jack D. Mertes for a variance to the front yard setback on property generally located at 1631 N 73<sup>rd</sup> Street.

### **PUBLIC HEARING**

**March 29, 2002**

Jack Mertes appeared. He stated that he was surprised by statement number 4 in the staff report which reads, "If this appeal were not granted, the owners could continue to use the building as a single family dwelling. A smaller addition could be constructed, or an unenclosed porch could be built up to 10 feet into the required front yard per §27.72.100. It appears that moving the bathroom door to the east wall would permit enough room to maneuver and would allow the addition to be built outside of the required front yard. Building & Safety indicated that the minimum required door clearance per ADA is 36 inches." He did not understand what an unenclosed porch would do to benefit him in his request for a room to have a sleeping area and bathroom area for his wife, Sarah.

The request is for 2.5 feet to add a room. He went to other organizations to help him because he had no comprehension of what was needed. He also didn't know that the use of the room's interior would be considered at the meeting. He submitted a detailed drawing that was done with the help of Peggy Hansen of Assisted Technology Partnership. That organization works entirely with handicapped people or people of need.

There is no private application for ADA, it is only public and has nothing to do with home construction. It is commonly accepted that a wheelchair requires at least 5' of operating space to turn.

If the variance is not granted, he will not be able to construct the room. The room will leave him approximately 7' 6" to work with. When you take the common construction of 6-8" for a wall - he would like to put an 8" wall on the north wall - that leaves about 7' or less to operate in the room. Peggy Hansen is a HUD inspector and a registered nurse. This is her job. She works with handicapped people. She is trying to help them stay in their home. This is a multiple level home. There is no bathroom on Sarah's living area level. He is trying to get Sarah a bathroom and privacy area to sleep in on that floor since she

needs assistance to get up and down the stairs even with the chair lift.

The property is 38' to the sidewalk facing Aylesworth, 34' from the property line. The setbacks in the area average between 21 and 29 feet. If he is granted a variance, his setback would be 23' from his property line.

This will not cause any disruption to the neighborhood. He sent a letter to the neighbors and didn't receive any comments back. He understands the zoning, but he also understands that they have a need and that for 2.5 feet they can continue to live in their home.

Wanser asked if they requested a drawing that would fall within the setback requirements, but cover the length of the house east and west. Mertes indicated that he had not because that is a load bearing wall running east and west, facing north. He only has a limited amount of money. That would have to be put in as a beam and taken across.

He is trying to give Sarah some independence and the ability to continue her life as it is. With multiple sclerosis, her quality of life is only going to continue to deteriorate. There is no hope for remission. The space he is asking for is needed for equipment that will be needed for her future care. Ultimately, without the variance as her condition deteriorates, he will be unable to care for her and she will have to go to a rest home.

He added that they moved to town six years ago to be nearer the hospital, Madonna rehabilitation center, and her doctors. They purchased a lot in Lincoln that was almost two lots wide under false pretenses finding that they had purchased green space. They had to sue the developer to get their money back. After that they lived for 3 months in a motel and 3 months with his mother. They bought this house out of desperation with the idea they would be out in a year. It is now almost six years later and her condition is continuing to deteriorate.

With no one further appearing, the public hearing was closed.

#### **ACTION**

**March 29, 2002**

Wanser moved approval, seconded by Carroll.

Carroll asked whether they would be allowed to overhang the north wall the extra 2 feet to get the 10' room space if they stay within the setback requirements. Harris stated that they could not because the floor space cannot go into the front yard.

Motion for approval carried 3-0; Wanser, Carroll and Hancock voting 'yes'; Wibbels and Krieser absent.

**City Board of Zoning Appeals No. 2326**

**Requested by Tom Patton for a variance to the rear yard setback on property generally located at 7201 Greenwood Court.**

**PUBLIC HEARING**

**March 29, 2002**

Tom Patton appeared on behalf of the homeowner. The property has a 21' setback in the back yard. They currently have and always have had a covered patio on the back of the house with 2 posts to hold the roof up. The far north post is 21' from the property line straight out, but he has learned that you have to pull the tape all the way around the back yard and it goes to 15' to the lot line. The sunroom that is being proposed is no bigger than the covered patio they have now. The size of the room, roof and pitch of the roof will not change. The roof will be replaced and the walls will be enclosed with tempered glass. There will be a continuous footing 12' out and 14' across.

This is a very odd shaped lot. It does have the existing piers that were cleared and installed when the house was built in 1982. The overhang will be shorter than what is there now. They are the original homeowners. This has always been this way since they built the house.

This will increase the value of their house and will not decrease the value of the neighboring properties. The neighbors to the north and south approve of this. This will not cause any public safety or welfare problems. The materials to be used are aluminum and tempered glass.

There is an apartment complex behind the house, so there is not a regular homeowner there. That property is within about 8' of the lot. They are asking for a variance from 21' to 15'.

With no one further appearing, the public hearing was closed.

**ACTION**

**March 29, 2002**

Wanser indicated that he is in favor of this variance. The configuration of the lot is strange. The side yard that abuts this property is an apartment complex garage and at best is a little intrusive in and of itself. He was of the opinion that this was within the realm of the Board to approve based on the shape of the lot and realizing that the roof line is already there.

Carroll stated that he is uncomfortable approving the reduction for the entire side yard. He would be in favor of approving this if it could be reduced only for the room and blueprints submitted with this application.

Skinner stated that if the Board is thinking to approve the variance for this sunroom with these dimensions that should be stated specifically in the resolution.

Wanser moved approval with the stipulation that it is as per the drawing submitted and marked "Exhibit A" only, seconded by Carroll. Motion for approval carried 3-0; Wanser, Carroll and Hancock voting 'yes'; Wibbels and Krieser absent.

There being no further business, the meeting adjourned at 2:20 pm.